



Petition Number: 1604-SE-01

Subject Site Address: 303 East 161st Street (the "Property")

Petitioner: Noah Herron (Urban Farmer LLC) (the "Petitioner")

Request: The petitioner is requesting approval of a Special Exception to allow an Agritourism Use (vineyard and winery) in the AG-SF1: Agriculture / Single-Family Rural District (Chapter 13).

Current Zoning: AG-SF1: Agriculture / Single-Family Rural District

Current Land Use: Agriculture / undeveloped

Approximate Acreage: 5.0 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Petitioner's Narrative
4. Site Plan Exhibit
5. Illustrative Character Exhibit

Staff Reviewer: Jesse M. Pohlman, Senior Planner

OVERVIEW

Location: The subject property is 5.0 acres +/- in size and located at 303 East 161st Street (see [Exhibit 2](#)). The Property is zoned the AG-SF1: Agriculture / Single-Family Rural District (the "AG-SF1 District"). The Property is currently tilled and undeveloped. The surrounding properties include a church, residential and agricultural uses.

Land Use: As summarized in [Exhibit 3](#) (the "Petitioner's Narrative") and depicted in [Exhibit 4](#) (the "Site Plan Exhibit") and [Exhibit 5](#) (the "Illustrative Character Exhibit"), the Petitioner is requesting this Special Exception to allow a vineyard (4.5 acres +/-) and 4,000 sq. ft. +/- building. The building is proposed to include wine processing (i.e. grape crushing, fermenting, aging, storage) and related sales (i.e. retail, tasting facilities).

The proposed use is defined as an Agritourism Use¹ by the UDO, which is permitted as a Special Exception within the AG-SF1 District. The UDO² provides that the purpose of the AG-SF1

¹ Chapter 12 of the UDO defines "Agritourism Use (or Agritainment Use)" as "[a]n agriculturally-based operation or activity that brings visitors to an operational farm, and that may include, but is not limited to, uses and activities such as: pumpkin patches, Christmas tree sales, animal interaction exhibits (i.e. petting zoo, pony rides), apple or strawberry picking, seasonal or holiday activities (i.e. corn mazes, hay or wagon rides, straw piles, haunted houses), family-oriented activities (i.e. bounce houses, pedal cars, kiddie rides), creamery, **vineyards**, **breweries**, educational experiences or tours, limited retail sales of products not produced on-site (i.e. country store, activity



District is to “accommodate agricultural land uses and large-lot Single-family Dwellings.” The AG-SF1 District currently permits uses such as: farms and farm buildings, churches, golf courses, nurseries and greenhouses, schools, stables and single family dwellings. In addition to Agritourism Uses, other Special Exception uses contemplated in the AG-SF1 District include: kennels, large animal hospitals, private clubs and lodges, schools with dormitories, stockyards, riding stables, and zoos.

Accompanying Petition: The Petitioner is also requesting Variances of Development Standard (1604-VS-07) related to the requested Special Exception.

SPECIAL EXCEPTIONS

Definition: Chapter 12 (Definitions) of the Unified Development Ordinance (the “UDO”) defines a “Special Exception” as “[a] use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted.”

Use Table: Chapter 13 (Use Table) of the UDO provides that “[a] Special Exception designation is not meant to imply that the use will be disallowed, but that the use requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board of Zoning Appeals reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for those Zoning Districts in which it is permitted. The determination of whether the Special Exception may be approved shall be subject to a public hearing by the Board of Zoning Appeals and review in accordance with Article 10.11 Special Exceptions.”

Purpose: Article 10.11(B)(Processes and Permits; Special Exceptions; Purpose) of the UDO states “[a] Special Exception is a use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted. The determination of whether the Special Exception is approved shall be contingent upon: (i) the Special Exception meeting the standards of this Ordinance and those standards as set forth in this Article; and (ii) the Board weighing, in each case, the public need and benefit against the local impact, giving effect to the proposals of the Applicant for ameliorating adverse impacts through special site planning and development techniques and contributions to the provisions of public improvements, sites, right-of-way and services.”

ticket sales), **related beverage or food sales (i.e. tasting facilities**, lunch counters, dairy bar, refreshment or specialty food stands), **and related ancillary uses and buildings.**

² Article 4.2(A): AG-SF1: Agriculture / Single-Family Rural District; Propose and Intent.

ANALYSIS

The below analysis coincides with the review criteria for a Special Exception set forth in the Unified Development Ordinance³, as summarized herein.

Criteria #1: The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.

Comment: It is unlikely that approving the requested Special Exception would be injurious to the public health, safety, morals, and general welfare of the community because the use as proposed is consistent with the character of the area.

Criteria #2: The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.

Comment: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed Special Exception should not have a negative impact on surrounding properties because: (i) the operation and design of the use are intended to mitigate the impact on surrounding properties; (ii) the use is otherwise contemplated as appropriate in the AG-SF1 District; (iii) the proposed use provides a complementary use and transition to the varying land uses of surrounding properties; and (iv) the development and use of the site would otherwise comply with applicable regulations (except as otherwise approved with the corresponding request of Variances of Development Standard 1604-VS-07).

Criteria #3: The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.

Comment: The Unified Development Ordinance contemplates the proposed use within the AG-SF1 District. The proposed operation and design of the use should mitigate potential impact on surrounding properties and will not impede the use and development of adjacent properties. As such, the use is compatible with other permitted uses of the AG-SF1 District and potential conflicts resulting from other future and adjacent uses should be diminutive.

³ Article 10.11 Processes and Permits; Special Exceptions; Review Criteria of the UDO.



Criteria #4: Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.

Comment: If the Special Exception is approved by the Board, then review and approval of a Detailed Development Plan will be required prior to the commencement of the use. As a result, the development plan will be reviewed by the Technical Advisory Committee for compliance with the applicable ordinances to ensure adequate infrastructure and facilities are installed to facilitate the proposed development.

Criteria #5: Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.

Comment: If the Special Exception is approved by the Board, then review and approval of a Detailed Development Plan will be required prior to the commencement of the use. As a result, the development plan will be reviewed by the Technical Advisory Committee for compliance with the applicable ordinances to ensure adequate ingress and egress improvements are installed. In addition, the development will be subject to road impact fees at the time of the improvement location permit for the proposed building.

Criteria #6: The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Suburban Residential" land use classification. As summarized below, the Special Exception is generally consistent with the goals and objectives of the Comprehensive Plan.

Development policies of this land use classification include⁴: (i) promote the protection of the existing suburban character of the area; (ii) encourage only compatible infill development on vacant parcels in existing neighborhoods as means of avoiding sprawl and ensure that new development occurs in a way that is contiguous with existing development; (iii) new development should be permitted only upon a demonstration that it will not alter the character of the area, and will not generate negative land use impacts; (iv) ensure that infill development is compatible in mass, scale, density, materials and architectural style to existing development; and (v) ensure that new development adjacent to existing suburban is buffered.

⁴ Westfield-Washington Township Comprehensive Plan, pages 39-43.



The Comprehensive Plan identifies appropriate land uses in this land use classification to include: (i) detached dwellings; (ii) attached dwellings; (iii) institutional uses; (iv) recreational uses; (v) artisan farms⁵; and (vi) equestrian uses.

In addition, the intersection of 161st Street and Spring Mill Road was further studied in 2013 that resulted in an amendment to the Comprehensive Plan known as the [Spring Mill Station Plan](#), adopted in 2014. The addendum resulted in the formation of the Spring Mill Station Task Group (the "SMSTG").

The Spring Mill Station Plan identifies a geographic area of the Spring Mill Station Plan and sets forth several recommendations pertaining to the future development and design of private developments and public infrastructure within the area that are suggested as being essential for achieving the Spring Mill Station vision described in the plan.

Although the subject property is located 1,900 feet +/- east of the Spring Mill Station study area, the Department encouraged the petitioner to meet with the SMSTG. The SMSTG has reviewed the proposed use and the Department anticipates the results of their review will be presented at the public hearing.

Criteria #7: The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and the Unified Development Ordinance, and as may be applicable to such use, will be met.

Comment: The Unified Development Ordinance contemplates the use within the AG-SF1 District. The use and property will otherwise comply with or exceed the applicable standards of the AG-SF1 District (except as otherwise approved with the corresponding request of Variances of Development Standard 1604-VS-07). In addition, one of the Department's recommended conditions is that the standards of Chapter 6 and Chapter 8 of the Unified Development Ordinance applicable to nonresidential uses and buildings in a Business District shall apply.

⁵ Appendix A of the Westfield-Washington Township Comprehensive Plan defines "Artisan Farm" as "[a] small farm with owners living on site that produces goods or services for the local table market (not the commodity market). This term includes but is not limited to orchards, tree nurseries, hay, vegetables, and the raising of limited numbers of animals such as horses, llamas, alpacas, sheep, goats, and chickens.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Special Exception. This petition is scheduled to receive its public hearing at the April 12, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO⁶ and Indiana law provide that the Board of Zoning Appeals in granting a Special Exception, may prescribe conditions and limitations concerning the use, construction, character, location, landscaping, screening, parking and other matters relating to the purposes and objectives of this Ordinance upon the premises benefited by a Special Exception as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Any conditions prescribed by the Board shall be recorded in the Office of the Recorder of Hamilton County, Indiana. Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the Special Exception or related Improvement Location Permit, pursuant to Chapter 11: Enforcement & Penalties.

Review Criteria: The Board of Zoning Appeals may approve a Special Exception only upon a determination that the Special Exception at the proposed location meets the following⁷:

1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.
2. The Special Exception will be designed, constructed, operated, and maintained so as to:
(i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.
3. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.
4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.

⁶ Article 10.11(l) Processes and Permits; Special Exceptions; Conditions of the UDO.

⁷ Article 10.11 Processes and Permits; Special Exceptions; Review Criteria of the UDO.



5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.
6. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.
7. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and this Ordinance, and as may be applicable to such use, will be met.

DEPARTMENT COMMENTS

Approval: If the Board finds that adequate evidence is shown that the Special Exception meets the applicable review criteria, then the Department recommends approving the Special Exception, with the recommended conditions below, and adopting the written review criteria findings as summarized herein.

Recommended Conditions:

1. The Agritourism Use shall be developed and operated in substantial compliance to the Petitioner's Narrative and Site Plan Exhibit, subject to review and approval for compliance with applicable ordinances and laws of the development plan and appropriate permits. Any expansion or substantial alteration to the scope and operation of the Agritourism Use, as determined by the Director, shall require approval by the Board of Zoning Appeals.
2. The standards of Chapter 6 and Chapter 8 of the Unified Development Ordinance that are applicable to nonresidential uses and buildings in a Business District shall apply to the Agritourism Use, except as otherwise varied by an approved Variance of Development Standard (1604-VS-07) or waiver by the Plan Commission as part of a Detailed Development Plan approval.
3. The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the approval of a development plan and/or issuance of a building permit for the property.

Denial: If the Board is inclined to reject or deny the Special Exception, then the Department recommends denying the Special Exception, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.